

Application No. 10/700,142  
Response Dated 12/5/05  
Reply to Office Action of 10/3/05

this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Claims 1-6, 8, 10-15 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable by Franklin et al., U.S. Patent No. 5,865,918 in view of Soto et al., U.S. Patent No. 6,615,106. Claims 7 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin et al., in view of Soto et al. and Carpenter et al., U.S. Patent No. 5,232,539. Lastly, claims 9 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Franklin et al. in view of Soto et al. and further in view of Schwenke et al., U.S. Patent No. 5,940,293. Applicants respectfully traverse these rejections for the reasons set forth below and respectfully request that the rejections be withdrawn.

Independent claim 1 recites a label applicator mechanism that is operatively connected to a label printer for directly receiving a label printed by the label printer and rotating the printed label toward one side of a loaded pallet for applying the label thereto. The printed label is applied to the one side of a loaded pallet at a predetermined label position which is variably definable for individual loaded pallets independent of pallet size. Claim 1 further recites a drive mechanism capable of moving the label applicator mechanism relative to the loaded pallet and a programmable control operatively coupled to the drive mechanism for causing the drive

Application No. 10/700,142  
Response Dated 12/5/05  
Reply to Office Action of 10/3/05

mechanism to move the label applicator mechanism so as to apply the printed label to the one side of the loaded pallet at the predetermined label position.

Independent claim 10 is similar to claim 1 but recites a label applicator mechanism for directly receiving labels printed by the label printer and rotating the printed labels toward two sides of a loaded pallet for applying the printed labels at a predetermined label position, for each of the two sides of the loaded pallet, which is variably definable for individual loaded pallets independent of pallet size.

In the rejection of independent claims 1 and 10 as being unpatentable over Franklin et al. in view of Soto et al., Examiner takes the position that the primary Franklin et al. reference discloses a rotary actuator for rotating the printed label toward one side of an article. Examiner appears to be referring to the embodiment of the Franklin et al. label applicator shown in Figs. 21 and 22 that provides for variable placement of the printed label on one side of the article. However, Applicants respectfully submit that in this embodiment of the Franklin et al. label applicator, the printed label is not rotated toward the one side of the article to apply the label thereto as recited in each of independent claims 1 and 10 and the rejections should be withdrawn.

In particular, in the embodiment of the Franklin et al. label applicator shown in Figs. 21 and 22, movement of the label applicator pad (145) is controlled by a computer system that controls movement of an X slide (265), a Y slide (266), a vertical slide (267) and a rotary actuator (225) (see Col. 14, lines 9-32). In this embodiment,

Application No. 10/700,142  
Response Dated 12/5/05  
Reply to Office Action of 10/3/05

the rotary actuator (225) is used to rotate the label from 0 to 180° in a plane parallel to one side of the article so that the rotary actuator (225) causes a rotation of the pad (145) prior to placing of the label (213) on the article (see Col. 16, lines 5-6 and Col. 19, lines 41-43). Following rotation of the label by the rotary actuator (225), the vertical slide (267) moves the pad (145) downwardly in a straight path until it contacts the article to apply the label thereto (see Col. 19, lines 47-56).

Applicants respectfully submit that in the embodiment of the Franklin et al. label applicator as shown in Figs. 21 and 22, the label is not rotated "toward" one side of the article to apply the label thereto as recited in each of independent claims 1 and 10. Rather, the label is first rotated in a plane parallel to one side of the article (and so not rotated "toward" one side of the article) and then the rotated label is moved in a straight path toward the one side of the article through movement of the vertical slide (267) to apply the label thereto (and so not rotated to apply the printed label to the article).

While Applicants respectfully submit there is no teaching or suggestion to combine Franklin et al. with Soto et al. as sought in the rejection since this would destroy the intended purpose and function of the Franklin et al. label applicator to pick up a printed label from the tray (104) before the printed label is applied to one side of the article (see Col. 19, lines 25-34), Applicants submit that, in any event, the hypothetical combination fails to achieve Applicants' claimed invention as recited in

Application No. 10/700,142  
Response Dated 12/5/05  
Reply to Office Action of 10/3/05

each of independent claims 1 and 10. Accordingly, Applicants respectfully submit that the rejection of independent claims 1 and 10 is improper and should be withdrawn.

Moreover, as claims 2-9 and 11-18 depend from allowable independent claims 1 and 10, and further as each of these claims recites a combination of elements not taught or suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

### **Conclusion**

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this effect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicants do not believe that this response requires that any fees be submitted, however, if any fees are deemed necessary, these may be charged to Deposit Account No. 23-3000.

Application No. 10/700,142  
Response Dated 12/5/05  
Reply to Office Action of 10/3/05

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.



David H. Brinkman, Reg. No. 40,532

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202  
(513) 241-2324 - Voice  
(513) 421-7269 - Facsimile